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Hearing Date: February 25, 2015
Hearing Time: 9:15 a.m.
Objection Date: February 18, 2015

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF NEW YORK

In re:

Chapter 7

HOFFMANS TRADE GROUP LLC,

Case No. 13-11662-1-REL

Debtor.

**MOTION BY CHAPTER 7 TRUSTEE FOR AN ORDER AUTHORIZING THE SALE
OF A CERTAIN CUSTOMER LIST OF THE DEBTOR PURSUANT TO 11 U.S.C. § 363
AND ESTABLISHING BIDDING PROCEDURES**

Chapter 7 Trustee, Marc S. Ehrlich, Esq. (the “Trustee”), by and through his attorneys, Deily & Glastetter, LLP, hereby moves this Honorable Court for an Order Authorizing the Sale of a Certain Customer List of the Debtor, Pursuant to 11 U.S.C. § 363 and Establishing Bidding Procedures. In support of this Motion, the Trustee states as follows:

1. This Court has jurisdiction over this motion pursuant to 11 U.S.C. § 1334. This proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (N). Venue is proper in this Court pursuant to 28 U.S.C. § 1408 and 1409.

2. The Debtor, Hoffmans Trade Group LLC (“Debtor”), entered bankruptcy through the filing of an involuntary petition on June 28, 2013 (the “Petition Date”), which was amended on July 19, 2013. The Debtor did not contest the involuntary filing.

3. On August 11, 2013, the Court entered the Order for Relief. Thereafter, on August 2, 2013, the Court appointed March S. Ehrlich as Chapter 7 Trustee of the Debtor’s Bankruptcy Estate.

4. Deily & Glastetter, LLP was retained as special counsel to the Trustee by Order dated December 11, 2013.

5. Upon information and belief, the Debtor is a domestic limited liability company, duly organized under the laws of the State of New York with a principal place of business at 637 Loudon Road, Latham, New York 12110.

6. The Debtor was engaged in two (2) separate lines of business. The Debtor's primary business enterprise involved the purveying of large quantities of canned goods to its customers. The majority of Debtor's canned goods customers were regional food banks. That portion of the Debtor's business is not subject to this Motion herein. The Trustee is not selling the customer list for any of the food suppliers, food vendors or food customers of the Debtor.

7. The other line of business that the Debtor also focused on was the recycling of waste materials in the manufacturing process of diapers and later, paper products. Gael Coakley testified before the Trustee that these waste products cannot be recycled in America but that he had obtained overseas markets which would utilize these waste by-products and he acted as a liaison to facilitate the transfer of those waste products to foreign companies. It is only the lists that contain both the suppliers and purchasers of those waste products that the Trustee seeks to sell by way of this Motion.

8. The Debtor has received an Asset Purchase Agreement from Gael Coakley for the purchase of the customer lists for only the recycling customers and suppliers. The purchase price for these customer lists is Two Thousand Five Hundred and 00/100 (\$2,500.00) Dollars. A copy of the Asset Purchase Agreement is attached hereto as **Exhibit "A"**.

9. The Trustee seeks to sell this Asset Purchase Agreement free and clear of liens and encumbrances pursuant to 11 U.S.C. § 363. While the Bankruptcy Code does not specify a

standard for determining when it is appropriate for a court to authorize the sale or the use of property of the estate, courts have found that the sale or use of assets outside the ordinary course of business should be approved if a sound business justification can be demonstrated for the proposed transaction. *See In re: Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983).

10. The Trustee seeks approval of the sale subject to higher and better offers. The Trustee seeks the Court's authority to allow bidding on the sale of the subject asset at intervals of Five Hundred and 00/100 (\$500.00) Dollars at the sale hearing.

11. It is anticipated that Gael Coakley will utilize this customer list in an effort to earn sufficient income to make repayments to creditors of this estate, pursuant to a plea agreement entered into by Gael Coakley on December 23, 2014, which orders criminal restitution to the creditors of the Debtor.

12. The Trustee has granted a license to Gael Coakley to allow him to review this customer list in anticipation of his efforts to restore this line of business, subject to the ultimate approval of this proposed sale by the Bankruptcy Court.

13. It is the Trustee's position that the price obtained for the sale of this asset is both fair and reasonable and that the proposed purchaser has negotiated in good faith and that while Gael Coakley is an insider, he will not be unfairly benefited by the sale of this asset.

14. Due to the inherently proprietary nature of the customer list, the list of both purchasers and suppliers is not being attached to this Motion herein but is being provided to the Court for in camera review.

15. Accordingly the Trustee recommends the sale of the customer list to Gael Coakley for Two Thousand Five Hundred and 00/100 (\$2,500.00) Dollars, pursuant to the Asset Purchase Agreement attached hereto as Exhibit "A", subject to higher and better offers, free and

clear of liens and encumbrances pursuant to 11 U.S.C. § 363(f). It is the Trustee's position that this is the highest and best offer obtained for the sale of this asset thus far in the case and will result in additional revenue being brought into this estate.

WHEREFORE, the Trustee seeks approval of the sale of the customer list to Gael Coakley for Two Thousand Five Hundred and 00/100 (\$2,500.00) Dollars, subject to higher and better offers and for such other and further relief as the Court deem just and proper.

Dated: February 3, 2015
Albany, New York

DEILY & GLASTETTER, LLP

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